

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

IN RE:

LATASHA CHANTA TENNIAL,

Case No. 18-28470-JDL

Debtor.

Chapter 13

MOTION TO TERMINATE AUTOMATIC STAY, OR IN THE ALTERNATIVE
FOR AN ORDER DEEMING THE AUTOMATIC STAY TO NOT BE IN
EFFECT AS TO CERTAIN REAL PROPERTY, *IN REM* AND WITH
PREJUDICE

COMES NOW REI Nation, LLC, by counsel, pursuant to Section 362(d) of the Bankruptcy Code, and respectfully moves this Honorable Court for a Order Terminating the Automatic Stay, or in the alternative for an Order deeming the Automatic Stay to not be in effect as to certain real property, and in support thereof would respectfully show the following:

1. REI Nation, LLC, ("REI") is the owner of the Premises located at 4573 Fawn Hollow Cove, Memphis Tennessee. REI purchased the Premises as a bona fide purchaser for value from Bank of America on June 18, 2019. The Special Warranty Deed is attached as Exhibit A hereto. The Premises was sold at foreclosure in 2014 and has never been property of the Bankruptcy Estate.

2. Debtor filed this Chapter 13 case on October 10, 2018. On March 25, 2019, the then owner of the Premises, Bank of America, obtained relief from the Automatic Stay for the purpose of obtaining possession of the Premises

[Order Granting Motion for Relief from Automatic Stay, Doc. 26]. A true and genuine copy of the March 25, 2019 Order is attached hereto as Exhibit B.

3. On June 12, 2019, Bank of America filed a forcible entry and detainer ("FED") action in General Sessions Court. This case was dropped from the calendar. On July 2, 2019, REI filed its own FED action. On July 24, 2019, the Debtor appeared in General Sessions Court and advised counsel and the court of her bankruptcy. However, she failed to advise of the Order lifting the Stay as to the Premises. REI was not aware of this bankruptcy case until that time.

4. Cause exists for a termination of the Automatic Stay effective on March 25, 2019, pursuant to Section 362(d)(1) for the purpose of allowing Movant to exercise its state law remedies to obtain possession of the Premises, on grounds that the Premises has never been property of the estate, and the Debtor has no leasehold interest that is capable of being assumed pursuant to Section 365 of the Bankruptcy Code, Bank of America having been afforded the same relief by Order dated March 25, 2019.

5. Alternatively, REI seeks an Order of this Court deeming it to be a successor in interest to Bank of America as to the Premises and Order of March 25, 2019, and declaring that the Automatic Stay is not in effect as a stay of REI's efforts to obtain possession of the Premises.

6. REI seeks an In Rem Order as to the Premises with prejudice as to any future bankruptcy filing by Debtor or any other occupant of the Premises, on

grounds that the Debtor has been less than forthcoming to REI and the state court as to the status of her bankruptcy and the automatic stay.

WHEREFORE, PREMISES CONSIDERED, REI respectfully requests this Honorable Court to enter an Order terminating the Automatic Stay for the purpose of allowing it to exercise its state law remedies as to the Premises in an F.E.D. or similar action, for a waiver of the fourteen-day stay provided under Rule 4001(a)(3) F.R.B.P., in the alternative for an Order as set out in Paragraph 5 herein, In Rem and with prejudice, and for such other relief as the Court may deem proper.

Respectfully submitted,

BEARD & SAVORY, PLLC

/s/ Russell W. Savory

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CERTIFICATE OF SERVICE

I, Russell W. Savory, do hereby certify that a true and accurate copy of the foregoing pleading has been served on the Debtor, Debtor's Attorney, and the Chapter 13 Trustee via electronic notice or U. S. Mail, postage prepaid, this 25th day of July, 2019.

/s/ Russell W. Savory

Russell W. Savory